

REMARKS

Claims 1-30 are pending, with claims 1, 2, 8, and 19 being independent. Claims 1, 2, 8, 15, and 19 have been amended.

Claim rejections under 35 USC 112

The Examiner has rejected claim 15 under 35 USC 112, second paragraph, because there is insufficient antecedent basis for the limitation "retrieved information." This rejection has been rendered moot by the amendment to claim 15.

Claim rejections under 35 USC 103

Each of the pending claims 1-30 have been rejected under 35 USC 103(a) as being unpatentable over various combinations of references. In particular, independent claims 1, 2, 8, and 19 have been rejected under 35 USC 103(a) as being unpatentable over Reps (6,070,190) in view of Southard (5,781,735). Applicant submits that, as amended, independent claims 1, 2, 8, and 19 are allowable over Reps in view of Southard. For at least the same reasons, each of the other pending dependent claims are patentable under 35 USC 103(a).

Independent claims 1, 2, 8, and 19 have each been amended in a similar manner. Therefore, Applicant treats independent claim 2 as representative of these independent claims, and discusses claim 2 in detail. Claim 2 has been amended to recite that "the copies of the scalable application themselves generat[e] the first data and report[] the first data to daemons running on the hosts." Claim 2 has also been amended such that the second data is generated "by host monitor programs running on the hosts." Support for these amendments may be found at least in Fig. 1 of the patent application as filed. For instance, FIG. 1 depicts that the applications generate and report application status and performance data to an instrumentation daemon. Further, FIG. 1 depicts that a host monitor application retrieves information regarding the CPU,

memory, file I/O, network I/O, and so on, regarding the host on which they run. Reps in view of Southard does not teach or suggest the claimed subject matter.

First, the Examiner relies upon Reps in finding the limitation of the claimed invention that recites the generation of first data corresponding to performance of the scalable applications. However, Reps, and thus Reps in view of Southard, does not disclose or suggest the generation of this first data by the scalable applications themselves, and does not disclose or suggest the reporting of this first data to daemons running on the hosts. Rather, Reps discloses that a different program, the application monitoring and alerting (AMA) probe 201, generates the first data regarding the application program 203. (See, e.g., FIG. 2 of Reps, and col. 9, ll. 47-66 of Reps) Thus, unlike the claimed subject matter where the application programs themselves generate the first data, in Reps, and therefore in Reps in view of Southard, a separate or different program, the AMA probe, generates the first data regarding the application programs. Furthermore, Reps, and thus Reps in view of Southard, does not disclose or suggest any type of daemon or other program or process running on the hosts themselves to which this first data is reported. For at least these reasons, Reps in view of Southard does not render the claimed subject matter unpatentable.

Second, the Examiner relies upon Southard in finding the claim limitation of the generation of second data corresponding to performance of the hosts. However, Southard, and thus Southard in view of Reps, does not disclose or suggest the generation of this second data by host monitor programs running on the hosts. Rather, Southard uses a separate device, such as a separate host, that is connected to the network, to generate this second data regarding the hosts. As described in Southard,

[Network Management Resource Services] NMRS Data is data generated from the NMRS Monitor "which is a personal computer such [as] an IBM compatible PC or Macintosh PC having the ability to execute programs and store data. . . .

NMRS Monitor is the source of NMRS data. This is normally a device that is connected to each LAN in a network.

(Col. 4, ll. 29-39) Thus, unlike in the claimed subject matter where there are host monitor programs running on all of the hosts to generate the second data, in Southard, and therefore in Reps in view of Southard, a separate device, such as a separate computer, is connected to the network to generate the second data regarding the hosts. For at least this reason, Reps in view of Southard does not render the claimed invention unpatentable.

Claims 3-4, 6-7, 9-10, 17-18, 25, and 27-29 each depend from one of independent claims 1, 2, 8, and 19, and are allowable at least by reason of their dependency.

Ivanoff, Monteiro, and Aziz each fail to remedy the shortcomings of Reps and Southard described above. Therefore, claims 5, 11, 30, claims 12 and 20, and claims 13-16, 21-24, and 26 – each of which depend from one of independent claims 2, 8, and 19 – are allowable at least by reason of their dependency.

Conclusion

Applicant has made a diligent effort to place the pending claims in condition for

allowance, and requests that they be allowed. If it would expedite prosecution, it is respectfully requested that the Examiner telephone Scott Boalick, Applicant's Attorney, at 540-653-8061.

Respectfully Submitted,

January 4, 2005

Date



Scott Boalick
Reg. No. 42,337
Attorney/Agent for Applicant(s)

Naval Surface Warfare Center
Dahlgren Division
Office of Counsel
17320 Dahlgren Road
Dahlgren, VA 22448-5110
(540) 653-8879